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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/008,881	10/16/2007	4,924,257	258882800100	6017

7590 04/08/2009

EUGENE C. RZUCIDLO
HUNTON & WILLIAMS LLP
200 PARK AVENUE
NEW YORK, NY 10166

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 04/08/2009

Please find below and/or attached an Office communication concerning this application or proceeding.



MAILED

APR 08 2009

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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

Robert A. Saltzberg
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105

CENTRAL REEXAMINATION UNIT

EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. 90/008,881.

PATENT NO. 4,924,257.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Notice of Intent to Issue Ex Parte Reexamination Certificate	Control No.	Patent Under Reexamination	
	90/008,881	4,924,257	
	Examiner	Art Unit	
	James Menefee	3992	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. Prosecution on the merits is (or remains) closed in this *ex parte* reexamination proceeding. This proceeding is subject to reopening at the initiative of the Office or upon petition. Cf. 37 CFR 1.313(a). A Certificate will be issued in view of
 - (a) Patent owner's communication(s) filed: 22 August 2008.
 - (b) Patent owner's late response filed: _____.
 - (c) Patent owner's failure to file an appropriate response to the Office action mailed: _____.
 - (d) Patent owner's failure to timely file an Appeal Brief (37 CFR 41.31).
 - (e) Other: _____.

Status of *Ex Parte* Reexamination:

 - (f) Change in the Specification: Yes No
 - (g) Change in the Drawing(s): Yes No
 - (h) Status of the Claim(s):
 - (1) Patent claim(s) confirmed: 1,4-7,10,13 and 15-19.
 - (2) Patent claim(s) amended (including dependent on amended claim(s)): _____
 - (3) Patent claim(s) cancelled: _____.
 - (4) Newly presented claim(s) patentable: _____.
 - (5) Newly presented cancelled claims: _____.
2. Note the attached statement of reasons for patentability and/or confirmation. Any comments considered necessary by patent owner regarding reasons for patentability and/or confirmation must be submitted promptly to avoid processing delays. Such submission(s) should be labeled: "Comments On Statement of Reasons for Patentability and/or Confirmation."
3. Note attached NOTICE OF REFERENCES CITED (PTO-892).
4. Note attached LIST OF REFERENCES CITED (PTO/SB/08).
5. The drawing correction request filed on _____ is: approved disapproved.
6. Acknowledgment is made of the priority claim under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the certified copies have
 - been received.
 - not been received.
 - been filed in Application No. _____.
 - been filed in reexamination Control No. _____.
 - been received by the International Bureau in PCT Application No. _____.

* Certified copies not received: _____.
7. Note attached Examiner's Amendment.
8. Note attached Interview Summary (PTO-474).
9. Other: claims 2,3,8,9,11,12,14, and 20-22 were not reexamined.

cc: Requester (if third party requester)
U.S. Patent and Trademark Office
PTOL-469 (Rev.08-06)

Notice of Intent to Issue Reexamination Certificate

This is a reexamination of U.S. Patent No. 4,924,257 (“the ‘257 patent”). Original patent claims 1, 4-7, 10, 13, and 15-19 are under reexamination. As described in the Order Granting Reexamination, claims 2-3, 8-9, 11-12, 14, and 20-22 are not being reexamined. This action is in reply to Patent owner's Response filed 8/22/2008 (“Response”).

References/Citations

U.S. Patent No. 3,538,828 to Genovese (“Genovese”).

U.S. Patent No. 3,884,573 to Franklin (“Franklin”).

U.S. Patent No. 3,819,265 to Feldman et al. (“Feldman”).

U.S. Patent No. 4,685,807 to Picard (“Picard”).

U.S. Patent No. 4,708,466 to Isohata et al. (“Isohata”).

U.S. Patent No. 4,822,975 to Torigoe (“Torigoe”).

GB 1 510 007 to Frosch et al. (“Frosch”).

Cuthbert, “Optical Projection Printing,” Solid State Technology, vol. 20 no. 8, pp. 59-69 (Aug. 1977) (“Cuthbert”).

Bruning, “Optical Imaging for Microfabrication,” Semiconductor International, pp. 137-156 (Apr. 1981) (“Bruning”).

Lin, “The Future of Subhalf-Micrometer Optical Lithography,” Microelectronic Engineering, vol. 6, pp. 31-51 (Dec. 1987) (“Lin”).

Non-final Rejection mailed 5/22/2008 (“Non-final Rejection”).

Information Disclosure Statement

The examiner is aware of five IDSs filed since the last Office Action, those filed 3/12/2009, 1/8/2009, 10/30/2008, 9/30/2008, and 9/19/2008. They are considered as on the attached sheets.

Note that numerous documents are lined through as not considered. Any references already considered previously are lined through; the '257 patent is lined through; documents where a copy is required and there is no copy in the file are lined through; documents from the related litigation are lined through. Litigation documents are evidence but are not prior art as such, and therefore will not be printed on the face of the reexamination certificate. Such items are therefore lined through. It is noted that the examiner has read and considered such evidence, and to the extent that their submission was required by the duty to disclose, the examiner understands that duty to have been satisfied.

It is noted that the Patent owner has submitted a number of documents that are indicated as under protective order and thus are confidential. The examiner has looked at the documents, and does not find them to be material to patentability. It seems that all such documents are a part of the court record, and as litigation materials are not considered on the IDSs as stated in the preceding paragraph. The examiner notes the petition to expunge this information filed 9/30/2008 under rule 1.59. As the proceeding is now terminated, the appropriate Office official should now act on this petition.

A large number of references have been cited by the Patent owner. It is to be noted that where items of information are submitted by a patent owner in compliance with the requirements of the rules, the requisite degree of consideration to be given to such information

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will be limited by the degree to which the patent owner has explained the content and relevance of the information. In instances where no explanation of citations is required and none is provided for an information citation, only a cursory review of that information is required. The examiner need only perform a cursory evaluation of each unexplained item of information, to the extent needed in order to determine whether to evaluate the item further. If the cursory evaluation reveals the item not to be useful, the examiner may simply stop looking at it. This review may take the form of considering the documents in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. The initials of the examiner, in this proceeding, placed adjacent to the citations on the PTO-1449 or PTO/SB/08A and 08B or its equivalent, without an indication in the record to the contrary, do not signify that the information has been considered by the examiner any further than to the extent noted above. See MPEP 609, 7th ¶.

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STATEMENT OF REASONS FOR PATENTABILITY AND/OR CONFIRMATION

Claims 1, 4-7, 10, 13, and 15-19 are confirmed. The examiner has no opinion on claims 2, 3, 8, 9, 11, 12, 14, and 20-22 that were not reexamined. The following is an examiner's statement of reasons for patentability and/or confirmation of the claims found patentable in this reexamination proceeding:

There is not taught or disclosed in the prior art a high resolution, high exposure speed, large effective field size scan and repeat lithography system as in claim 1 (or method of providing such a high-resolution, large-field, high-speed system as in claim 17), including the mask, substrate, and illumination and projection subsystems as claimed, where the projection subsystem is a reduction system, and providing complementary exposures in an overlap region between the areas exposed by adjacent scans in such a way that the exposure dose distribution received in the overlap region is seamless and the exposure dose received across the entire substrate is uniform.

Any comments considered necessary by PATENT OWNER regarding the above statement must be submitted promptly to avoid processing delays. Such submission by the patent owner should be labeled: "Comments on Statement of Reasons for Patentability and/or Confirmation" and will be placed in the reexamination file.

Response to Arguments

Patent owner's arguments in the Response are substantially persuasive. While all of the arguments are not discussed herein, the entirety of the Response has been considered and the following is sufficient for withdrawing the prior rejections.

Feldman as primary reference

In the Non-final Rejection at pages 4-8, independent claim 1 was rejected as obvious over Feldman in view of Cuthbert, and further in view of Frosch, and independent claim 17 was rejected as obvious over those same references and further in view of Bruning. Patent owner has argued against these rejections. Response pp. 55-82. The examiner finds the arguments substantially persuasive.

First the examiner notes that the preamble of claim 1 requires "A high resolution, high exposure speed, large effective field size scan and repeat lithography system." Claim 17 similarly requires in the preamble "a scan and repeat lithography system for high-resolution, large-field, high-speed lithography." The examiner finds that these limitations are a part of the claim and are positive limitations of the claims. These statements are not mere statements of intended use or purpose. See MPEP 2111.02(II.). They are statements of what the device *actually is*, rather than telling us only how it is intended to be employed. The examiner finds that in giving properties of the system the preamble herein is necessary to give life, meaning, and vitality to the claim and is construed herein as if it is a part of the claim.

In light of this, the examiner agrees with the Patent owner's arguments that Feldman, in its potential teaching of element (e) of claim 1 and element (h) of claim 17, cannot itself provide the high-speed, i.e. high throughput, that is required of the claims. Response pp. 68-69. For this

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reason, in the prior rejections, the examiner combined Feldman with Frosch to meet the claims. Upon further consideration, however, the examiner agrees with the Patent owner's arguments as to why Frosch also achieve very low throughput, thus not capable of meeting the claims when combined with Feldman, and also agrees that Frosch and Feldman cannot properly be combined. Response pp. 69-79. As the references cannot be combined, and even if they were they would not meet all of the limitations of the claims, the examiner withdraws the rejections based on Feldman and Frosch.

The above is deemed sufficient to withdraw the prior rejections, therefore other arguments given by the Patent owner, e.g. whether stopping and starting of illumination is a requirement of the claims, do not need to be addressed herein.

Genovese as primary reference:

In the Non-final Rejection at pages 8-9, independent claim 1 was rejected as obvious over Genovese alone (with supporting evidentiary references), and independent claim 17 was rejected as obvious over those same references and further in view of Bruning. Patent owner has argued against these rejections. Response pp. 39-55. The examiner finds the arguments substantially persuasive.

The examiner agrees with Patent owner that Genovese describes three embodiments (shown in Fig. 3; Fig. 4; and Figs. 5-8), and that embodiments one and three are immaterially different. Response p. 40.

First and third embodiments:

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As shown in Fig. 3, light source 54 illuminates master pattern 58 to provide an image onto multiple image lens 74 to provide an exposure onto photosensitive medium 72. Arms 62 are moved to scan the pattern 58 with the light source to provide the exposure. Photosensitive medium 72 is supported on block 80 that is fixed in place via a pair of bolts.

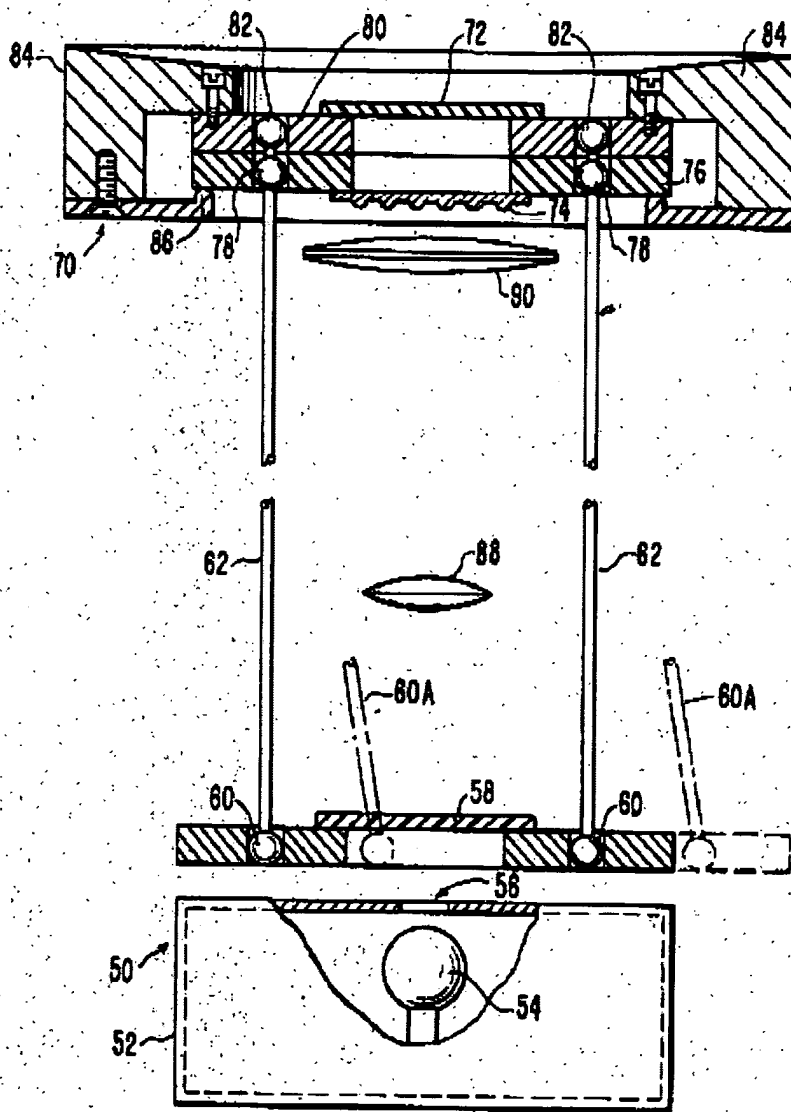


FIG.3

The photosensitive medium 72 corresponds to the substrate of the '257 patent. Due to the fixed nature of this medium, these embodiments of Genovese cannot meet the limitations of the

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claims of scanning the substrate and moving the substrate stage. '257 patent claims 1 and 17, limitation (a).

To meet these limitations, the Request proposed that it would have been obvious to move the stage 80 having the photosensitive medium 72 of Genovese in light of Genovese's description in Figs. 2A-2C of the "basic scanning principle of the invention" where both the master and the photosensitive medium are moved. See, e.g., Request p. 56. The examiner disagrees, and agrees with the Patent owner. First, Figs. 2A-2C are not necessarily embodiments of Genovese, but are just basic principles of how scanning may operate in Genovese.¹ With nothing else, the examiner *would* find it obvious that Genovese's first and third embodiments could operate in such fashion. The examiner agrees, however, with Patent owner's arguments that Genovese teaches away from moving the photosensitive medium in these embodiments. Response p. 47. Genovese makes clear that mechanical matching of the elements is important to achieve good results given the fine scanning that takes place, and this is done by designing the device with "mechanical excellence." Col. 6 lines 16-25. The examiner agrees with Patent owner, Response p. 47, that such mechanical excellence and stability of the system is achieved, at least in part, due to the fixing of the photosensitive medium in place during the scanning, as it is much simpler and would provide much less error potential to have fewer moving parts. In light of Genovese's expressed requirement that mechanical excellence is important, and the fact that Genovese expressly utilizes bolts to fix the photosensitive medium to help achieve this mechanical excellence, the examiner finds that Genovese teaches away from modifying the first

¹ It should be noted that in the second embodiment, described below, both the photosensitive medium and the master *do* move. So it is not as if Genovese added Figs. 2A-2C for no reason; they describe the basic principles of embodiment two. And still, they describe the *basic* principles of embodiments one and three, even if those principles are slightly altered for other reasons, i.e. the stability and mechanical excellence described below.

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and third embodiments to move the photosensitive medium. These embodiments therefore do not teach or disclose the limitations of the claims as described above.

Second embodiment:

The second embodiment, shown in Fig. 4, does not include bolts holding the photosensitive medium in place. Indeed, the photosensitive medium moves. Thus, this embodiment does not have the same problems as the first and third embodiments for the scanning of the substrate limitations of the '257 patent.²

The second embodiment, however, is a magnification system rather than a reduction system. The claims of the '257 patent require that the system be a reduction system. '257 patent claims 1 and 17, element (d). The examiner agrees with Patent owner that Genovese's magnification embodiment cannot meet this limitation. Response pp. 51-52. The examiner further agrees with Patent owner, Response p. 52, that it would not have been obvious to modify embodiment two to be a reduction system. Magnification and reduction systems do opposite things, therefore it would alter the essential principle of operation of the second embodiment to modify it in this fashion. This cannot be done in an obviousness rejection. MPEP 2143.01(VI).

The examiner therefore finds that none of the embodiments of Genovese meet all of the limitations of the claims. Further, for the reasons stated above, the embodiments also cannot be

² This is not contrary to the statements above as to the mechanical excellence required for embodiments one and three. The cited section of Genovese referring to mechanical matching refers to the scan width required with the multielement lens. Col. 6 lines 16-25. Embodiment two does not include such a lens, which makes sense as it is a magnification system, therefore the cited section is not entirely applicable.

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modified to meet the limitations that are lacking. The rejections based on Genovese are therefore withdrawn.

The above is deemed sufficient to withdraw the prior rejections, therefore other arguments given by the Patent owner, e.g. whether Genovese is analogous art, do not need to be addressed herein.

Franklin as primary reference

In the Non-final Rejection at pages 9-12, independent claim 1 was rejected as obvious over Franklin in view of Feldman, and further in view of Genovese, and further in view of Frosch, and independent claim 17 was rejected as obvious over those same references and further in view of Bruning. Patent owner has argued against these rejections. Response pp. 16-39. The examiner finds the arguments substantially persuasive.

Franklin discloses in Fig. 3 a projection printer 46 having an optical system housing 50 disposed on a base plate 48. Col. 2 lines 40-42. The housing is movable bi-directionally in one dimension (i.e. left-right on the page of Fig. 3). Col. 2 lines 42-47. Housing 50 includes light source 80 for illuminating the plates (discussed below) through diaphragm 82 that may be in the shape of a polygon, see Fig. 4B. Col. 3 lines 12-30. During illumination, master plate 76 is scanned by the light to expose an image of the illuminated region on photosensitive plate 78, *id.*, similar to the '257 patent where a mask is scanned by light to produce an image of exposure on a substrate.

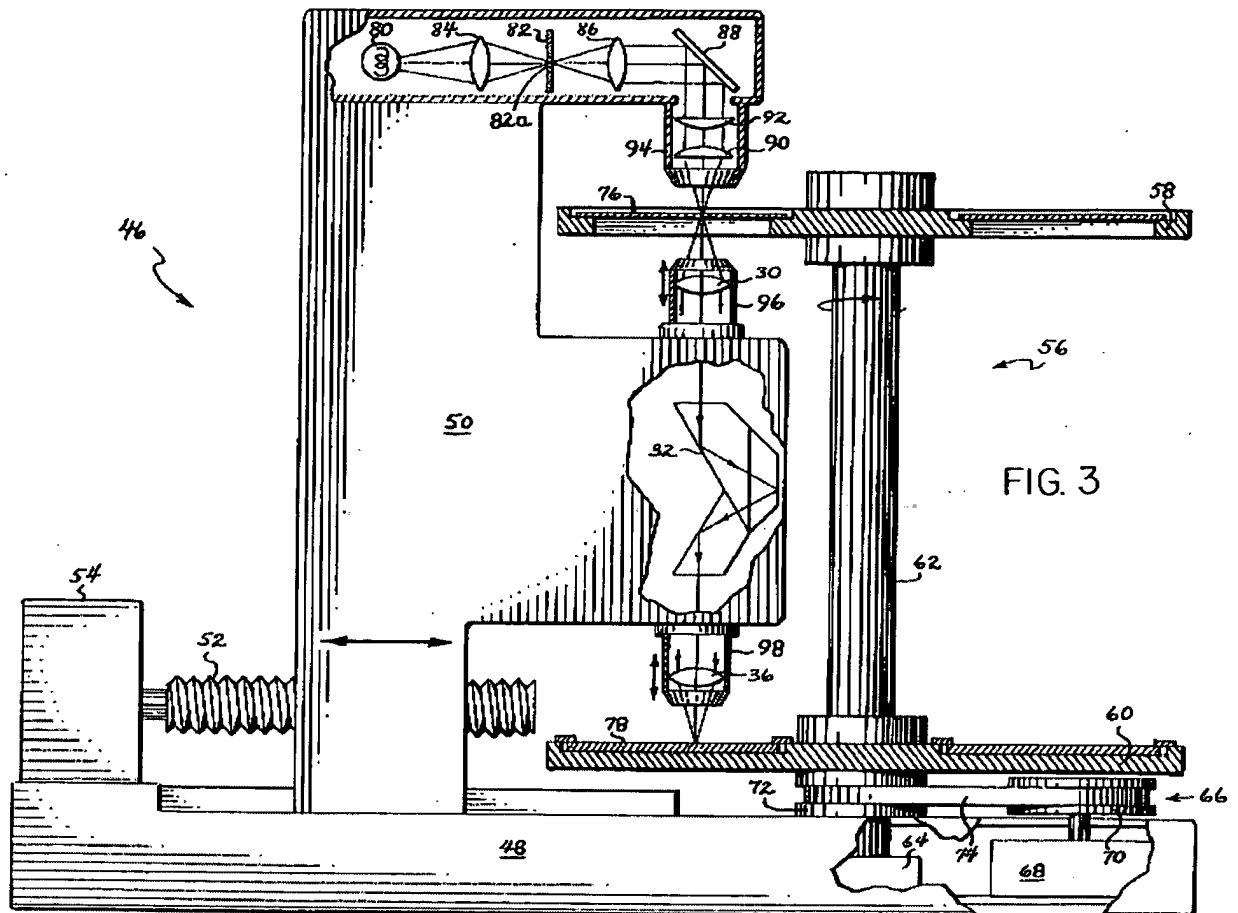


FIG. 3

During illumination, plates 76, 78 are rotated on plate holders 58, 60 around shaft 62 on plate positioning system 56. Col. 2 lines 48-59. This provides a spiral scan, which Franklin states provides a uniform exposure in conjunction with the aperture 82a of diaphragm 82. Col. 3 line 31 – col. 4 line 3. Franklin states that in addition to spiral scanning, a raster scan could be used. Col. 3 lines 37-40.

The examiner agrees with Patent owner's arguments that Franklin's system of Fig. 3 could not achieve raster scanning, despite what Franklin states, due to the rotational and lateral motion as described above. Response pp. 20-21. And given Franklin's focus upon rotatable motion of the plates, the examiner finds no reason that a person of ordinary skill in the art

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viewing Franklin would substitute a different scanning system, for example an x-y table, in place of the rotating plate positioning system. Even though the system of Fig. 3 is merely called a "preferred embodiment," col. 1 lines 46-48, there is no description of any other embodiments, of how or why a raster scan could be implemented, nor of how or why scanning could occur without rotation as shown. In light of Franklin's use of only rotational scanning as described in Franklin, and that raster type scanning would not work with such a device, the examiner is not persuaded that it would have been obvious to combine Franklin with references such as Feldman and Genovese to provide such raster scanning as indicated in the prior rejection.

Given that raster scanning will not work with Franklin, the examiner looks to the spiral scanning that Franklin shows. The examiner agrees with Patent owner that such scanning would not provide uniform exposure of the plates because the rotation of the plates combined with the linear movement of the light source will leave areas of non-uniformity. Response pp. 22-23. The claims require the exposure dose received across the substrate to be uniform. '257 patent claims 1 and 17, limitation (h). As Franklin's system does not provide uniform scanning in the spiral mode, and there is no reason to provide raster scanning in Franklin as it would not work (i.e. no reason to use Genovese or Feldman as in the prior rejection), the rejections based on Franklin will be withdrawn.

The above is deemed sufficient to withdraw the prior rejections, therefore other arguments given by the Patent owner, e.g. whether Franklin is analogous art, do not need to be addressed herein.

Commercial Success

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Patent owner has argued that the claims are not obvious due to the alleged secondary considerations, including long-felt need, commercial success, and praise. Response pp. 82-101.

As the examiner has withdrawn all of the previous rejections, there is no need to consider the secondary considerations in rebutting the *prima facie* case of obviousness.

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Conclusion

All correspondence relating to this *ex parte* reexam proceeding should be directed as follows:

By U.S. Postal Service Mail to:

Mail Stop *Ex Parte* Reexam
ATTN: Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900
Central Reexamination Unit

By hand to: Customer Service Window
Randolph Building
401 Dulany St.
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit at telephone number (571) 272-7705.

Signed:



James Menefee
Primary Examiner
Central Reexamination Unit 3992
(571) 272-1944

March 24, 2009

Conferees: /Margaret Rubin/

Margaret Rubin, CRU 3992



MARK J. REINHART
CRU SPE-AU 3992




UNITED STATES PATENT AND TRADEMARK OFFICE

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BIB DATA SHEET

CONFIRMATION NO. 6017

SERIAL NUMBER	FILING or 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.		
90/008,881	10/16/2007	355	3992	258882800100		
APPLICANTS 4,924,257, Residence Not Provided; ANVIK CORPORATION (OWNER), ELMSFORD, NY; MORRISON & FOERSTER LLP (3RD.PTY.REQ.), SAN FRANCISCO, CA; ROBERT A. SALTZBERG, SAN FRANCISCO, CA;						
** CONTINUING DATA ***** This application is a REX of 07/253,717 10/05/1988 PAT 4,924,257						
** FOREIGN APPLICATIONS *****						
** IF REQUIRED, FOREIGN FILING LICENSE GRANTED **						
Foreign Priority claimed	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Met after Allowance	STATE OR COUNTRY	SHEETS DRAWINGS	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119(a-d) conditions met	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Initials			22	4
Verified and Acknowledged	/ERIC S KEASEL/ Examiner's Signature					
ADDRESS EUGENE C. RZUCIDLO HUNTON & WILLIAMS LLP 200 PARK AVENUE NEW YORK, NY 10166 UNITED STATES						
TITLE SCAN AND REPEAT HIGH RESOLUTION PROJECTION LITHOGRAPHY SYSTEM						
FILING FEE RECEIVED 2520	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:			<input type="checkbox"/> All Fees		
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Issue Classification 	Application/Control No. 90/008,881	Applicant(s)/Patent under Reexamination 4,924,257	
	Examiner James Menefee	Art Unit 3992	

ISSUE CLASSIFICATION										
ORIGINAL					CROSS REFERENCE(S)					
CLASS		SUBCLASS			CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)				
355		53			250	492.2				
INTERNATIONAL CLASSIFICATION					355	77				
G	0	3	F	7/20						
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NONE (Assistant Examiner) (Date) <i>R. Solpe</i> 3.27.09 (Legal Instruments Examiner) (Date)	<i>/James Menefee/</i> 3/23/09 (Primary Examiner) (Date)	Total Claims Allowed: 12 <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">O.G. Print Claim(s)</td> <td style="text-align: center;">O.G. Print Fig.</td> </tr> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">1</td> </tr> </table>	O.G. Print Claim(s)	O.G. Print Fig.	1	1
O.G. Print Claim(s)	O.G. Print Fig.					
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<input checked="" type="checkbox"/> Claims renumbered in the same order as presented by applicant										<input type="checkbox"/> CPA		<input type="checkbox"/> T.D.		<input type="checkbox"/> R.1.47	
Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original		
1	1		31		61		91		121		151		181		
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	30		60		90		120		150		180		210		

Index of Claims



Application/Control No.

90/008,881

Examiner

James Menefee

Applicant(s)/Patent under Reexamination

4,924,257

Art Unit

3992

√	Rejected
=	Allowed

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N	Non-Elected
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A	Appeal
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Claim		Date				
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Reexamination 	Application/Control No. 90/008,881	Applicant(s)/Patent Under Reexamination 4,924,257
	Certificate Date	Certificate Number C1

Requester Correspondence Address: <input type="checkbox"/> Patent Owner <input checked="" type="checkbox"/> Third Party
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LITIGATION REVIEW <input checked="" type="checkbox"/>	JM (examiner initials)	3/23/09 (date)
Case Name	Director Initials	
see attached sheet	<i>Miller for Gregory Morse</i>	

COPENDING OFFICE PROCEEDINGS	
TYPE OF PROCEEDING	NUMBER
1. EP Reexam (denied 2/20/09, not aware of any petition to reconsider)	90/010,373
2.	
3.	
4.	

Anvik Corp. v. Nikon Precision Inc., 7:05cv7891 (S.D.N.Y. filed 9/9/2005) (open)

Anvik Corp. v. Samsung Elecs. Am. Inc., 7:07cv818 (S.D.N.Y. filed 2/2/2007) (open)

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Anvik Corp. v. Chi Mei Optoelectronics, 7:07cv821 (S.D.N.Y. filed 2/2/2007) (open)

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Anvik Corp. v. IPS Alpha Tech., Ltd., 7:08cv4036 (S.D.N.Y. filed 4/29/2008) (open)

